

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**MICHAEL WIDMER,
#B-30985,**

Plaintiff,

vs.

KIMBERLY BUTLER, et al.,

Defendants.

Case No. 14-cv-00867-NJR

MEMORANDUM AND ORDER

ROSENSTENGEL, District Judge:

This matter has been lingering on the Court's docket since July 31, 2014, when Plaintiff Michael Widmer filed a single lawsuit raising two distinct sets of claims against two different groups of defendants. *See Widmer v. Butler, et al.*, Case No. 14-cv-859 (S.D. Ill. 2014) ("original action"). On August 5, 2014, this Court severed the claims against the above-listed defendants into the instant action (Doc. 1, p. 8; Doc. 6, p. 8 in original action). Plaintiff was ordered to notify the Court on or before September 5, 2014, if he wished to voluntarily dismiss the severed case (Doc. 1, p. 11; Doc. 6, p. 11 in original action). Otherwise, the \$400.00 filing and docketing fee would be imposed, and Plaintiff would be obligated to pay it whether or not he proceeded with this action. The deadline passed without any communication from Plaintiff.

As a result, the Court entered a notice of impending dismissal on September 9, 2014 (Doc. 6). The Court reminded Plaintiff of his obligation to notify the Court in writing of any intention to voluntarily dismiss the severed action. He was also advised that he would be required to pay the full \$400.00 filing and docketing fee, regardless of his decision to proceed with the severed claims. Plaintiff was given a deadline of September 23, 2014, to respond.

He was warned that failure to do so would result in dismissal of this action under Federal Rule of Civil Procedure 41(b).

Plaintiff has, once again, failed to communicate with the Court, in clear violation of the Court's Orders (Docs. 1, 6). In fact, the Court has received no communication from Plaintiff in this case. The Court will not allow this matter to linger indefinitely. Accordingly, this action is **DISMISSED** without prejudice for failure to comply with a Court order and for want of prosecution. FED. R. CIV. P. 41(b). *See generally* *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994). This dismissal shall **NOT** count as a "strike" under 28 U.S.C. § 1915(g). Again, however, Plaintiff's obligation to pay the filing fee for this action was incurred at the time the action was filed, so the fee of \$400.00 remains due and payable. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998). All pending motions are hereby **DENIED as moot**.

The Clerk's Office is **DIRECTED** to close this case.

IT IS SO ORDERED.

DATED: October 3, 2014

The image shows a handwritten signature in black ink that reads "Nancy J. Rosenstengel". The signature is written in a cursive, flowing style. To the right of the signature, there is a faint, circular official seal of the United States District Court for the District of Columbia, which is partially obscured by the signature.

NANCY J. ROSENSTENGEL
United States District Judge